

### REMARKS

Claims 1-24 were pending as of the action mailed on April 17, 2008. Claim 1 is in independent form. This response is being filed with a request for continued examination.

Claims 1, 4 and 11 are being amended. Claim 3 is cancelled. No new matter has been added. Claim 25 is newly added. Support for the amendments and new claim can be found in the specification, for example, on page 5, lines 7-9 and page 8, lines 8-14. Reconsideration of the action is respectfully requested in light of the foregoing amendments and the following remarks.

The Examiner rejected claims 1, 8, 17-19, and 23-24 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2003/0037151 ("Montvay"). The Examiner rejected claims 2, 9-16, and 21-22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Montvay in view of U.S. Patent Application Publication No. 2002/0118954 ("Barton"). The Examiner rejected claims 3-7 and 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Montvay in view of U.S. Patent Application Publication No. 2003/0009520 ("Nourbakhsh").

### **Section 102 Rejections**

Claim 1 was rejected over Montvay. Claim 1 is directed to a method that includes resolving the scheduling conflict including automatically determining one or more plans for performing jobs, each plan having a combination of solutions including a particular solution for each of the plurality of jobs, wherein resources used by the plurality of jobs for the combination of solutions in each plan are less than or equal to the number of resources available at each interval and scoring each of the one or more plans.

The examiner states, with respect to claim 3, that Montvay does not disclose scoring plans but that Nourbakhsh does disclose this feature at paragraph 20. Applicant respectfully disagrees. Nourbakhsh discloses a technique for scheduling work schedules for employees at a call center in an efficient manner based on expected call loads and call types. *See* paragraph 2.

Specifically, paragraph 20 reads as follows:

At 204, scheduling software receives the scheduling data. The scheduling software is an existing tool for analyzing the scheduling data and generating scheduling constraints, including workload forecasts and service goals. The scheduling constraints are sent to a search engine at 206. The search engine generates potential schedules for analysis. At 208, analysis of schedules for deferred queues is performed to produce estimated service levels for the deferred queues according to the potential schedule that was analyzed. The analysis of 208 is performed using a forward-push discrete event modeler which estimates PCA for deferred queues given the workload and capacity in any given interval within the schedule period. PCA for deferred queues is used by the agent requirement scoring function at 210, along with service goals, to produce an agent requirement score. The analysis of 208 will be described more fully with reference to FIG. 4. The agent requirement score is used by the search engine 206 to evaluate the schedule. A schedule with the highest agent requirement score of all of the analyzed schedules is output as an "optimal" schedule to the user interface 202. The flow of FIG. 2 produces an optimal schedule, including optimal schedules for deferred queues as measured by traditional metrics used for immediate queues.

Paragraph 20 discloses schedules generated for estimated service levels. The schedules are evaluated with respect to an agent requirement score. The agent requirement score is based on an agents available formula and an agents required formula. *See* paragraphs 26-27. The schedules of Nourbakhsh are distinct from the claimed plans. The claimed plans resolve scheduling conflicts and have a combination of solutions including a particular solution for each of the plurality of jobs, wherein resources used by the plurality of jobs for the combination of solutions in each plan are less than or equal to the number of resources available at each interval. Thus, the claimed plan is distinct from a schedule for efficient employee staffing as in Nourbakhsh. As such, scoring the employee schedule of Nourbakhsh based on workload and available agents does not disclose or suggest scoring a plan for resolving a scheduling conflict. Applicant respectfully submits that claim 1, as well as claims 2 and 4-24, which depend from claim 1, are in condition for allowance.

Claim 18 was rejected over Montvay. Claim 18 is directed to filtering the one or more plans including keeping a first plan for presentation to a user and ignoring a second plan so that the second plan is not presented to the user.

The Examiner states that Montvay discloses the features of claim 18 at paragraphs 69-70. Applicant respectfully disagrees. Paragraph 69 discloses a step in a conflict resolution process.

In particular, multiple solutions are examined to find a "good proposal". See paragraph 69.

Paragraph 70 discloses that searching can continue after an acceptable proposal has been found.

Neither of the cited paragraphs, however, disclose or suggest filtering plans including keeping one plan for presentation to a user and ignoring a second plan that is not presented to the user. Applicant respectfully submits that claim 18, as well as claim 19, which depends from claim 18, are in condition for allowance.

### **Section 103 Rejections**

Claim 11 was rejected over Montvay and Barton. Claim 11 is directed to receiving a trigger including receiving an updated transmission schedule from an input source.

The Examiner relies on Barton as disclosing the features of claim 11, specifically citing paragraph 162. Applicant respectfully disagrees. The cited paragraph of Barton reads as follows:

In a preferred embodiment of the invention, all conflicts are resolved as early as possible, giving the viewer more control over what is recorded. When the viewer makes an explicit selection of a program to record, the algorithm described in FIG. 7 is used to immediately schedule the recording and manage any conflicts that arise.

The cited paragraph discloses that recordings are scheduled when a viewer selects a program to record. The cited portion of Barton does not disclose or suggest a trigger that includes receiving an updated transmission schedule from an input source. Applicant respectfully submits that claim 11 is in condition for allowance.

### **New Claim**

Claim 25 has been added. Claim 25 is directed to a method that includes resolving a scheduling conflict including automatically determining one or more plans for performing jobs, each plan having a combination of solutions including a particular solution for each of the plurality of jobs, wherein resources used by the plurality of jobs for the combination of solutions in each plan are less than or equal to the number of resources available at each interval, where determining each plan includes identifying a high scoring solution for a first job of a plurality of jobs and identifying solutions for each other job of the plurality of jobs compatible with the high scoring solution of the first job.

The cited references do not disclose or suggest determining a plan as including identifying a high scoring solution for a first job of a plurality of jobs and identifying solutions for each other job of the plurality of jobs compatible with the high scoring solution of the first job. Applicant respectfully submits that claim 25 is in condition for allowance.

### **Conclusion**

For the foregoing reasons, Applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the Examiner, Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicant's selecting some particular arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, Applicant's decision to amend or cancel any claim should not be understood as implying that the applicant agrees with any positions taken by the Examiner with respect to that claim or other claims.

It is believed that no fees are due with this filing. Please apply any other credits or charges to Deposit Account No. 06-1050.

Respectfully submitted,

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